

# FEDERAL COMMUNICATIONS COMMISSION 445 12th STREET SW WASHINGTON DC 20554

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2007

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Bob and Glorya Wilson Network Communications Company (Network) PO BOX 474 Dangerfield, TX 75368

Gabriel Arango, President Siga Broadcasting Corporation (Siga) 1302 N. Shepherd Drive Houston, TX 77008-3752

In re: The Raftt Corporation
KILE(AM), Bellaire, Texas
Facility ID No. 17389
File No. BL-20050902ACP
Informal Objections

## Ladies and Gentlemen:

This is in reference to: the above captioned application for license filed by Raftt, licensee of station KILE(AM); the November 8, 2005, interference complaint submitted by Network, licensee of station KNGR(AM); the November 18, 2005, Informal Objection filed by Siga, licensee of station KGBC(AM); and the November 1, 2006, amendment to application BL-20050902ACP.

### Background:

KILE(AM), a currently licensed daytime-only station with an operating power of 0.8 kW non-directional, has a construction permit BP-20020506AAT<sup>1</sup>, which authorized construction of a six tower, 50 kW daytime directional antenna system at a new site. The 50 kW facility was built, and Raftt filed a license application and a request for program test authority (PTA) on September 2, 2005. On November 8, 2005, the staff received an informal telephone interference complaint from a Network representative claiming station KILE was operating without authority

<sup>&</sup>lt;sup>1</sup> The permit was modified to add augmentations by construction permit BMP-20060201BCD.

at its new site using 50 kW, and was causing severe interference to KNGR.<sup>2</sup> On November 18, 2005, Siga filed an Informal Objection against the pending KILE license application, claiming that the KILE operation caused severe interference to KGBC, and stating that KILE did not have authority to operate at full power, and an approval of the KILE license could drive KGBC out of business.

By the staff's December 20, 2005, letter, KILE was granted PTA to operate with reduced power of 4.8 kW due to excessive radiation.<sup>3</sup> After Raftt filed amendments to its license application,<sup>4</sup> KILE was granted PTA with full power of 50 kW on October 5, 2006. In it's November 1, 2006, response to the objections, Raftt contends that: the informal objection and interference complaints submitted by Network and Siga made no specific allegations; Siga did not include measurements to show prohibited overlap between the KILE and KGBC 5 mV/m contours; the KGBC application (BMP-20060412AAU)<sup>5</sup> included Siga's statement proposing to accept overlap from the 50 kW KILE operation in order to illustrate a reduction in grandfathered overlap; Network's complaints did not specify exactly when or where interference exists, and did not provide measurement data to show alleged interference was greatest during morning and afternoon drive times (critical hours); Class D stations such as KNGR are not provided critical hours protection; measurement data submitted by Raftt indicates no prohibited groundwave overlap with KNGR; there is potential for daytime skywave signal towards KNGR due to increased sunspot activity, but KNGR is not protected from daytime critical hours skywave interference pursuant to the Commission's rules.

Raftt asserts that KILE operated using both the 0.8 kW licensed facility and the 4.8 kW December 20, 2005, PTA facility during 2006, and claims that the interference mentioned in Network's August 3, 2006, e-mail could not have been caused by KILE due to these low operating power levels. Raftt also claims that the interference mentioned in the April 20, 2006, and August 3, 2006, Network e-mail complaints were likely due to skywave interference from Mexican station XERF.

#### Discussion:

Procedurally, we find that since the e-mails filed by Network were not properly served on all parties, they cannot be considered as an informal objection. We find that Siga and Network have not provided substantial evidence as to the existence of interference to KGBC and KNGR caused by KILE's new 50 kW operation. It is well established that, under Section 319(c) of the Communication's Act, a lawful construction permit holder has a protected interest in grant of its

<sup>&</sup>lt;sup>2</sup> The staff informed the Network representative that the complaint would be forwarded to the FCC's Enforcement Bureau staff. On April 11, 2006, staff received a letter dated March 31, 2006, from Network stating that KILE was interfering with KNGR and that KNGR had lost listeners.

<sup>&</sup>lt;sup>3</sup> Raftt filed an application to augment the pattern (BMP-20060201BCD) on February 1, 2006. The application was granted on September 13, 2006.

<sup>&</sup>lt;sup>4</sup> Raftt filed amendments on March 15, and on June 20, 2006.

<sup>&</sup>lt;sup>5</sup> Application granted on June 8, 2006 to increase KGBC's daytime power from 1.0 kW to 2.5 kW. Our records indicate KGBC filed an application to license this permit on October 13, 2006 which remains pending.

<sup>&</sup>lt;sup>6</sup> See letter dated May 3, 2006, and August 28, 2006, from the Commission's Office of General Counsel. Our staff is also aware that Network continued to contact the FCC's Houston Office from November 2005 on into early 2006 regarding interference from KILE to KNGR, but no additional written complaint was properly filed with the Commission.

license application, and an objection that might have been valid at the permit authorization stage may be insufficient to warrant designation of the license application for hearing. See, e.g., Sudbury Broadcasting Corp., 23 FCC 2d 598.600 (1970); Radio Ingstad Minnesota, Inc. 12 FCC Rcd 8502.8504 (1997). Here Raftt submitted a full proof of performance in support of its license application, demonstrating that KILE's directional antenna system is properly adjusted and operating in accordance with the Commission's rules. In addition, we find that Siga and Network failed to submit any measurement data to support their allegations. Finally, since October 5, 2006, KILE has operated at full power of 50 kW, and we have not received any reported complaints of interference from KGBC or KNGR listeners since that date.

#### **Conclusion:**

Based upon the foregoing, the Informal Objection filed by Siga and the interference complaints submitted by Network are HEREBY DENIED, and the application for license for KILE (BL-20050902ACP) is HEREBY GRANTED.

Sincerely,

Susan N. Crawford

Assistant Chief Audio Division Media Bureau

cc:

Edward A. Schober Bob Morrow Bob and Glorya Wilson, Network Gabriel Arango, Siga Stephen Lee, Resident Agent, FCC Houston